

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IVAN RODRIGUEZ, MARCELINO MARTE,
JESUS RODRIGUEZ, on behalf of themselves and
all similarly situated individual employees and
former employees of Canada Dry Bottling
Company of New York, L.P.,

Plaintiffs,

v.

CANADA DRY BOTTLING COMPANY, L.P.;
ABC CORPORATION (1-20); XYZ
CORPORATION (1-20); JOHN DOES (1-10); and
JANE DOES (1-10),

Defendants.

Civil Action No. 2:14-cv-06897-KSH-CLW

Document Electronically Filed

ORDER

THIS MATTER having been opened to the Court by Defendant Canada Dry Bottling Company of New York, L.P. (“Defendant”), by way of Motion for an Order, pursuant to Fed. R. Civ. P. 12(b)(6), dismissing certain claims/damages pleaded in Plaintiffs’ Complaint; and the Court having considered the submissions of the parties and having heard the arguments of counsel, if any, and for good cause shown;

IT IS THIS _____ day of _____, 2015,

ORDERED that Defendant’s Partial Motion to Dismiss Certain Claims/Damages Pleased in Plaintiffs’ Complaint be and hereby is granted; and it is further

ORDERED that Plaintiffs’ claims for impermissible deductions under the Fair Labor Standards Act (“FLSA”) and the New Jersey Wage and Hour Law (“NJWHL”) shall be and hereby are dismissed with prejudice; and it is further

ORDERED that Plaintiffs' claims for punitive damages under the FLSA, NJWHL, and the Employee Retirement Income Security Act ("ERISA") shall be and hereby are dismissed with prejudice; and it is further

ORDERED that Plaintiffs' common law claim for non-payment of benefits, in Count Three of Plaintiffs' Complaint, shall be and hereby is dismissed, with prejudice, to the extent that such claim is preempted by Plaintiffs' ERISA claim in Count Five of the Complaint; and it is further

ORDERED that Plaintiffs' claims for failure to maintain records under the FLSA and NJWHL shall be and hereby are dismissed with prejudice; and it is further

ORDERED that Plaintiffs' collective action claim under the FLSA shall be and hereby is dismissed, without prejudice, pending Plaintiffs' submission of the statutorily mandated written notices of consent to be a party-plaintiff with this Court.

Hon. Katharine S. Hayden, U.S.D.J.